CF0000057864

-189 (Jail) C. J. P. R./1-91 CRA 1614 194 Division Bench (Criminal)

APPEAL OF PRISONER

No. 604 Name इन्दो

Father's name चेरसू नामदेव

Residence [illegible] Age 21 वर्ष

Sentenced to आजीवन कारावास रायगढ़ on 22-10-94 ST No 121/94

Under Section 302 I.P.C. by मुख्य न्यायिक दण्डाधिकारी रायगढ़

It is explained to the prisoner that if he states he wishes to be represented by a legal practitioner the appellate Court will not proceed with the case for seven days unless the legal practitioner appears earlier. If the legal practitioner does not appear within seven days he may not heard at all. if the prisoner states that he does not wish to be represented by legal practitioner the court may proceed at once with the case and will not be obliged to give a hearing to any legal practitioner who should appear.

1 Date of Application for copy of Judgement —

2 Date on which copy received —

3 Date on which Appeal sent —

4 Whether the prisoner wishes to be represented or not —

No. 604 Name इन्दो

Confined in जिला Jail रायगढ़

No. 1784 Dated 9-11-94 199

Forwarded to the मुख्य न्यायिक दण्डाधिकारी रायगढ़

to get her with a copy of judgement or order passed in the case for favour of transmission to the proper Appellate court.

निर्णय प्रतिलिपि —

Superintendent
District Jail Raigarh
Jail

Date of receipt in Office

Date of receipt of record to accompany the

Memo of Appeal to the Appellate court

No. 4 / J M Raigarh (MP) Dated 22.11 1994

Forwarded to the Submitted to Sessions Judge Raigarh (MP)

(C. B. Bajpai)
Chief Judicial Magistrate
Raigarh (M. P.)

Date of receipt in Appellate court

[P.T.O.]

(28)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr.A.1614/94 सन् ~~200~~

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DIVISION BENCH: HON'BLE SHRI L.C.BHADOO & HON'BLE SHRI DHIRENDRA MISHRA, JJ

CRIMINAL APPEAL NO.1614 of 1994

Appellant : Indro

Vs.

Respondent : State of Madhya Pradesh

Smt. Savita Tiwari, learned counsel for the appellant.

Shri Akhil Mishra, learned Panel Lawyer for the respondent/State.

ORAL JUDGMENT
(01.02.2006)

L.C. Bhadoo, J

By this appeal accused/appellant Indro has questioned the legality of judgment of conviction and order of sentence dated 22.10.1994 passed by learned Sessions Judge, Raigarh in Sessions Trial No. 121/94 whereby the learned Sessions Judge after holding the accused/appellant guilty for the commission of murder of Rajesh convicted him under Section 302 of the Indian Penal Code and sentenced him to undergo imprisonment for life.

2. Case of the prosecution, in brief, is that P.W.4 Hawalsai Kanwar lodged the report Ex.P-4 on 07.04.1994 in the Police Station-Paththalgaon to the effect that on that date at about 5.00 p.m. his nephew Rajesh Kanwar went towards the thrashing field of

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मामला क्रमांक Cr.A.1614/94 सन् ~~200~~

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Kanwalsai where accused Indro assaulted Rajesh with an axe and the same was witnessed by Khageshwar Kanwar. When Khageshwar asked Indro as to why he was attacking Rajesh, Indro fled away from the scene of occurrence carrying the bloodstained axe in his hand. Receiving this report Station House Officer, Police Station-Paththalgaon registered the crime under Section 302 of the IPC, left for the scene of occurrence and prepared the Panchanama of the body of Rajesh (P-1). Accused Indro gave memorandum (P-3) regarding the weapon of offence i.e. axe and in pursuance of that he got recovered the axe which was taken into possession by the investigating officer (P-2). The investigating officer also took into possession the bloodstained soil, plain soil, one cycle, slippers and one bloodstained napkin under P-5. Body of Rajesh was sent for postmortem examination to Primary Health Centre, Paththalgaon where Dr. B.D.Dubey conducted postmortem and prepared the postmortem report (P-20). The site plans of the place of occurrence (P-9 & P-10) were prepared. Bloodstained articles were sent for chemical examination to Forensic Science Laboratory, Raipur from where report (P-16) was received. After completion of the investigation the charge sheet was filed in the Court of Judicial Magistrate First Class, Dharamjaigarh who in turn committed the case to the Sessions Judge, Raigarh for trial.

3. The prosecution in order to establish the charge against the accused examined as many as seven witnesses. Statement of the accused was recorded under Section 313 of the Cr.P.C. in which

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विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित –3–	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

he denied the prosecution evidence appearing against him and stated that he is innocent and has been falsely implicated in the crime in question.

4. The learned Sessions Judge after hearing the argument of the Public Prosecutor and the counsel for the accused convicted and sentenced the accused as mentioned in paragraph-1 of this judgment.

5. We have heard Smt. Savita Tiwari, learned counsel appearing on behalf of the accused/appellant and Shri U.N.S.Deo with Shri Akhil Mishra, learned counsel for the State.

6. Homicidal death of Rajesh is not in dispute.

7. As far as involvement of accused/appellant Indro in committing the murder of Rajesh is concerned, P.W.1 Khageshwar is the person who witnessed the crime in question and stated that in the evening of that fateful day while he was working at the thrashing field of Kanwalsai he saw that Rajesh was lying on the ground and accused was attacking him with axe. He witnessed Rajesh lying on the ground at a distance of 10-12 feet on which he rebuked Indro and asked him as to why he is attacking Rajesh, whereupon accused Indro ran away from there carrying axe in his hand. Thereafter, he informed Jagdam and Premsai about the said incident. In the cross-examination of this witness the defence has not been able to elicit any circumstance which makes the evidence

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आदेश पत्रक

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विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

of this witness untrustworthy or unreliable. The evidence of this witness further stands corroborated by the evidence of P.W.2 Jagdam and P.W. 3 Premsai who have stated that on the fateful day they saw the accused going towards the thrashing field of Kanwalsai carrying axe in his hand and after some time they came to know from P.W. 1 Khageshwar that accused Indro has attacked Rajesh with axe and murdered him. They are the independent witnesses, they have corroborated the evidence of P.W. 1 Khageshwar and there is no reason to disbelieve the evidence of these persons. Moreover, the weapon of offence- axe was recovered at the instance of accused, therefore, in view of the evidence of P.W. 1 Khageshwar, P.W. 2 Jagdam and P.W. 3 Premsai the involvement of accused Indro in attacking Rajesh and thereby committing his murder is established.

8. In view of the foregoing, we do not find any illegality or infirmity in the judgment of the trial Court. Accordingly, the appeal being devoid of any substance deserves to be dismissed and it is dismissed.

Sd/-
L.C.BHADOO
Judge

Sd/-
Dhirendra Mishra
Judge

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